



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS, TX 75202-2733

158147



MAR 11 2003

**NOTICE OF POTENTIAL LIABILITY AND CERCLA 104(e) INFORMATION REQUEST  
URGENT LEGAL MATTER; PROMPT REPLY REQUESTED  
CERTIFIED MAIL # *Not Applicable*  
RETURN RECEIPT REQUESTED**

Ms Susan MacMullin  
Regional Director (ES-EC)  
U.S. Fish and Wildlife Service  
PO Box 1306  
Albuquerque, NM 87103-1306

RE: Notice of Potential Liability and Request for Information Pursuant to Section 104(e) of  
CERCLA ( 42 U.S.C. § 9604(e)(2))  
Gulfco Marine Maintenance, Inc.  
Freeport, Brazoria County, Texas

Dear Sir or Madam:

The Environmental Protection Agency (EPA) has determined that you are a Potentially Responsible Party (PRP) at the Gulfco Marine Maintenance Site. Therefore, you may be responsible under the Superfund law (also known as the Comprehensive Environmental Response, Compensation and Liability Act, or CERCLA, 42 U.S.C. §§ 9601-9675) for cleanup of the Site, or for costs incurred by the EPA in cleaning up the Site.

**NOTICE OF POTENTIAL LIABILITY**

The Environmental Protection Agency (EPA) has determined that hazardous substances were released into the environment at the Gulfco Marine Maintenance Site (hereinafter referred to as the "Site"), located in Freeport, Brazoria County, Texas. The EPA has already undertaken response actions consisting of a Preliminary Assessment and Site Inspection, the preparation of a Hazard Ranking System Documentation Record, and certain enforcement activities.

Under Section 107 of CERCLA, 42 U.S.C. § 9607, responsible parties are those persons who are current owners or operators of the facility; past owners or operators who owned or operated the facility at the time hazardous substances were disposed of at the facility; persons who arranged for disposal or treatment of hazardous substances at the facility (usually the person(s) who generated the hazardous substances); or persons who selected the facility and transported the hazardous substances to the facility. Section 107 of CERCLA, 42 U.S.C. § 9607, states that responsible parties are liable to the United States for the costs incurred in a removal and/or remedial action conducted by the EPA.

Information available to EPA indicates that you may be a responsible party because the EPA has obtained various documents relating to the ownership and operation of the Site, and these documents indicate you are a current owner or a previous owner of property comprising the Site.

If you believe that EPA has made an error in identifying you as a current and/or former owner of this Site, please provide information supporting your position. In addition, if you are aware of the names and whereabouts of other former owners and operators of the Site, as well as potential generators and transporters of hazardous waste to the Site, please provide that information to EPA.

To assist you in working with EPA concerning this matter, EPA is providing the following information as Enclosures to this letter:

- (a) List of Parties Receiving Notice Letters (Enclosure "A")
- (b) Information Request (Enclosure "B")

### **SITE BACKGROUND**

The Site encompasses 40 acres in Freeport, Brazoria County, Texas. The facility historically was used as a barge cleaning and servicing facility. The Site encompasses three buried/backfilled surface impoundments that received contaminated wash water from the barge cleaning operations, areas of contaminated soil, and releases to surface water and ground water. The Site is being proposed to the National Priorities List based on evidence that hazardous substances, including semivolatile organic compounds, lead, zinc, and pesticides, have migrated from the facility to the Intracoastal Waterway, pose a threat to nearby drinking water supplies and downstream sensitive environments, and have impacted fisheries downstream of the facility.

The facility operated as a barge cleaning and waste disposal facility from 1971 through 1979. Operations at the facility involved the cleaning, servicing, and repair of various chemical barges. Chemical barges were drained and pumped to remove product heels, which then were stored in tanks and sold as product. Each barge was washed with water or a detergent solution. Generated wash waters were stored either in surface impoundments, a floating barge, or on-Site storage tanks.

The surface impoundments received wash water from the cleaning of barges and other transport vessels that carried organic substances including alcohols, ketones, and crude oil. Waste wash water generated during the cleaning of chemical barges and other vessels was hard-piped to the surface impoundments for evaporation and separation. The maximum inventory of waste at any given time was 5.5 million gallons. The surface impoundments were certified closed in August 1982, following removal of the liquids and sludges, solidification of the remaining sludge with soil, and capping with three feet of clay cover and a hard wearing surface. Some sludge reportedly remained in one of the surface impoundments at the time of closure.

Underlying the Site is the Chicot/Evangeline aquifer system. This aquifer system is a major source of municipal and smaller public water supply systems in the Freeport area. The largest public water supply system within 4 miles of the Site is that of the city of Freeport, which supplies

approximately 11,300 people.

The Site lies within the 100-year coastal floodplain along the north bank of the Intracoastal Waterway between Oyster Creek to the east and the Old Brazos River Channel and the Dow Barge Canal to the west. The southern part of the Site drains to the south where it enters the Intracoastal Waterway. The surface water migration pathway extends in all directions within contiguous surface water bodies, since these surface water bodies are tidally influenced. Surface water flows eastward into the Drum Bay, Christmas Bay, Bastrop Bay, and Galveston Bay. Galveston Bay is the seventh largest estuary in the United States and is designated as a National Estuary as part of the National Estuaries Program. In addition, Christmas Bay is designated as the Christmas Bay Coastal Preserve of the Texas Coastal Preserve Program, and harbors eight endangered or threatened species including the Bald Eagle, Brown Pelican, Peregrine Falcon, Whooping Crane, Piping Plover, Reddish Egret, White-faced Ibis, and Green Sea Turtle. The 12,199-acre Brazoria National Wildlife Refuge is located to the south of Bastrop Bayou and contains the habitats of three state-threatened species, including the Wood Stork, White-tailed Hawk, and the Swallow-tailed Kite. A wetland area is located approximately 500 feet south of the Site across the Intracoastal Waterway. This area is classified as intertidal estuarine, emergent, persistent, and regularly flooded.

### **INFORMATION REQUEST**

In addition to the notice explained in this letter, EPA is also seeking your cooperation in providing information you may have about the Site, as explained further in the enclosed Information Request (Enclosure "B"). Under Section 104(e)(2) of CERCLA, 42 U.S.C. § 9604(e)(2), EPA has broad information gathering authority which allows EPA to require persons to furnish information and documents relating to the history of the ownership and operation of the Site, waste generation at the Site, and waste disposal practices at the Site. Information which you submit in response to this Information Request may be disclosed by EPA to authorized representatives of the United States, pursuant to 40 CFR 2.310(h), even if you assert that all or part of the information is confidential business information. Please be advised that EPA intends to disclose all responses to this Information Request to one or more of its private contractors for the purpose of organizing and/or analyzing the information contained in the responses to this Information Request.

While EPA seeks your cooperation in this investigation, compliance with the Information Request is required by law. Please note that false, fictitious, or fraudulent statements or representations may subject you to civil or criminal penalties under Federal law. **Under section 104(e)(5)(B)(ii) of CERCLA, the EPA may request a court to impose penalties of up to \$27,500 per day for non-compliance with this Information Request.** Although you may consider some of the information EPA is requesting to be confidential, please be aware that you may not withhold the information upon that basis. If you wish EPA to treat the information confidentially, you must advise EPA of that fact by following the procedures outlined in Enclosure "B" (Information Request, Gulfco Marine Maintenance, Inc. Site), including the requirement for supporting your claim for confidentiality.

If you have information about other parties who may have information which may assist EPA in its investigation of the Site or may be responsible for the contamination found at the Site, that information should be submitted along with this Information Request.

## **PRP RESPONSE AND EPA CONTACTS**

Please direct your response and questions regarding the information request to:

Ms. Janice Bivens  
Enforcement Officer (6SF-AC)  
U.S. Environmental Protection Agency  
Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, Texas 75202-2733  
Telephone: (214) 665-6717  
Fax: (214) 665-6660  
Email: [bivens.janice@epa.gov](mailto:bivens.janice@epa.gov)

If you or your attorney have legal questions pertaining to this matter, please direct them to:

Ms. Barbara A. Nann  
Assistant Regional Counsel (6RC-S)  
U.S. Environmental Protection Agency Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, Texas 75202-2733  
Telephone: (214) 665-2157  
Fax: (214) 665-6460  
Email: [nann.barbara@epa.gov](mailto:nann.barbara@epa.gov)

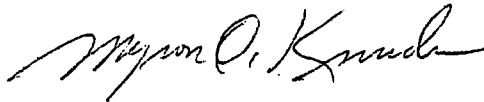
Questions concerning the technical aspects of the Site should be directed to:

Ms. Stacey Bennett  
Remedial Project Manager (6SF-AP)  
U.S. Environmental Protection Agency  
Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, Texas 75202-2733  
Telephone: (214) 665-6729  
Fax: (214) 665-6660  
Email: [bennett.stacey@epa.gov](mailto:bennett.stacey@epa.gov)

We ask your cooperation in providing this information to EPA. Thank you for your time and

attention to this matter.

Sincerely yours,

A handwritten signature in cursive script, reading "Myron O. Knudson".

Myron O. Knudson, P.E.  
Director  
Superfund Division

Enclosures

cc: Mr. Glenn Sekavec (Regional Enforcement Officer)  
U.S. Department of the Interior

Ms. Susan MacMullin (Regional Director)  
U.S. Fish and Wildlife Service

Mr. Brian Cain (Field Supervisor)  
U.S. Fish and Wildlife Service

Mr. Richard Seiler  
Texas Natural Resource Conservation Commission

Mr. Bill Grimes  
Texas General Land Office

Mr. Don Pitts  
Texas Parks and Wildlife Department

Mr. Barry Forsythe  
U.S. Fish and Wildlife Service

Mr. Roger Lee  
U.S. Geological Survey

Mr. Ron Gouget (Coastal Resource Coordinator)  
National Oceanic and Atmospheric Administration

**ENCLOSURE "A"**

**PARTIES RECEIVING GENERAL NOTICE  
GULFCO MARINE MAINTENANCE Site  
FREEPORT, BRAZORIA COUNTY, TEXAS**

Chromalloy American Corporation  
c/o Sequa Corporation  
111 Eighth Avenue  
New York, NY 10019

CT Corp. System, Registered Agent  
for Sequa Corporation  
350 No. St. Paul St.  
Dallas, TX 75201

CT Corp. System, Registered Agent  
for Chromalloy American Corporation  
350 No. St. Paul St.  
Dallas, TX 75201

Fish Engineering & Construction, Inc.  
P. O. Box 16290  
Houston, TX 77222-6290

B. L. Tanner, Registered Agent  
for Gulfco Marine Maintenance  
c/o Chromalloy American Corporation  
41 County Road 756  
Freeport, TX 77541

B. L. Tanner, Registered Agent  
for Gulfco, Inc. (TX)  
c/o Chromalloy American Corporation  
41 County Road 756  
Freeport, TX 77541

Corporation Service Company, Registered Agent  
for Hercules Offshore Corporation  
c/o Parker Drilling Company  
800 Brazos  
Austin, TX 78701

Robert Millis, Registered Agent  
for Hercules Real Estate Corporation  
c/o Adway International Ltd.  
11011 Richmond Ave., Suite 500  
Houston, TX 77042

CT Corp. System, Registered Agent  
for KTI Fish  
c/o Mannesmann Capital Corp  
350 N. St. Paul St.  
Dallas, TX 75201

LDL Coastal Limited LP  
906 Marlin Dr., CR 756  
Freeport, TX 77541

LDL Management, LLC  
906 Marlin Dr., CR 756  
Freeport, TX 77541

Mr. Jack Palmer  
Mr. Ron W. Hudson  
1509 Alta Vista Dr.  
Alvin, TX 77511-3101

**ENCLOSURE "B"**  
**INFORMATION REQUEST**  
**GULFCO MARINE MAINTENANCE Site**  
**FREEPORT, BRAZORIA COUNTY, TEXAS**

**INSTRUCTIONS**

1. Provide a separate narrative response to each and every question and subpart of a question set forth in this Information Request.
2. Precede each answer with the number of the question to which it corresponds.
3. If information or documents unknown or unavailable to you when you respond to this Information Request later becomes known or available to you, you must supplement your response to EPA. Moreover, if you find after responding that any response is false or misrepresents the truth, you must notify EPA of this fact as soon as possible and provide EPA with a corrected response.
4. For each document produced in response to this Request, indicate on the document or in some other reasonable manner the number of the question to which it responds.
5. "You" or "Respondent" shall mean the addressee of this Request; including, the addressee's officers, managers, employees, contractors, trustees, partners, successors, assigns, and agents or related corporation(s).
6. Answer Every Question Completely. A separate response must be made to each of the questions set forth in the Information Request. For each question contained in this letter, if information responsive to this information request is not in your possession, custody, or control, please identify the person(s) from whom such information may be obtained.
7. Number Each Answer. Precede each answer with the corresponding number of the question and the subpart to which it responds.
8. Provide the Best Information Available. Provide responses to the best of Respondent's ability, even if the information sought was never put down in writing or if the written documents are no longer available. You should seek out responsive information from current and former employees/agents. Submission of cursory responses when other responsive information is available to the Respondent will be considered non-compliance with this Information Request.
9. Identify Sources of Answer. For each question, identify (see Definitions) all the persons and documents that you relied on in producing your answer.
10. Continuing Obligation to Provide/Correct Information. Pursuant to CERCLA Section 104(e)(2), if additional information or documents responsive to this Request become known or available to you after you respond to this Request, you shall supplement your response to EPA.

11. Confidential Information. The information requested herein must be provided even though you may contend that it includes confidential information or trade secrets. You may assert a confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. § 9604(e)(7)(E) and F, and Section 3007(b) of RCRA, 42 U.S.C. § 6927(b), and 40 C.F.R. § 2.203(b). To prove your claim of confidentiality, each document must separately address the following points:
- a. the portions of the information alleged to be entitled to confidential treatment;
  - b. the period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
  - c. measures taken by you to guard against the undesired disclosure of the information to others;
  - d. the extent to which the information has been disclosed to others, and the precautions taken in connection therewith;
  - e. pertinent confidentiality determinations, if any, by EPA or other Federal agencies, and a copy of any such determinations or reference to them, if available; and
  - f. whether you assert that disclosure of the information would likely result in substantial harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

To make a confidentiality claim, please stamp or type "confidential" on all confidential responses and any related confidential documents. Confidential portions of otherwise non confidential documents should be clearly identified. You should indicate a date, if any, after which the information need no longer be treated as confidential. Please submit both a clean and a redacted version of any documents or response for which you claim confidential in a separate envelope.

All confidentiality claims are subject to EPA verification. Information covered by such a claim will be disclosed by EPA only to the extent, and only by means of the procedures, set forth in statutes and the regulations at 40 CFR Part 2, Subpart B. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by EPA without further notice to you. You should read the above-cited regulations and statutory provisions carefully before asserting a business confidentiality claim, because certain categories of information are not properly the subject of such a claim. **Your written response to this Request For Information must be sent to Ms. Janice Bivens within thirty (30) days of receipt of this request.** Under the authority of Section 104(e)(2) of CERCLA, 42 U.S.C. § 9604(e)(2), EPA is requesting you to respond to this Information Request. Compliance with this Information Request is required by law. Please note that false, fictitious, or fraudulent statements or representations may subject you to civil or criminal penalties.

12. Disclosure to EPA Contractor. Information which you submit in response to this Information Request may be disclosed by EPA to authorized representatives of the United States, pursuant to 40 C.F.R. 2.310(h), even if you assert that all or part of it is confidential business information. Please be advised that EPA intends to disclose all responses to this Information Request to one or more of its private contractors for the purpose of organizing and/or analyzing the information contained in the responses to this Information Request. If you are submitting information which you assert is entitled to treatment as confidential business information, you may comment on this intended disclosure within fourteen (14) days of receiving this Information Request.
13. Personal Privacy Information. Personnel and medical files, and similar files the disclosure of which to the general public may constitute an invasion of privacy should be segregated from your responses, included on a separate sheet(s), and marked as "Personal Privacy Information."
14. Objections to Questions. Even if you have objections to some or all the questions within the Information Request, you are still required to respond to each of the questions.

## DEFINITIONS

The following definitions shall apply to the following words as they appear in Enclosure B (Information Request, Definitions, Instructions, and Questions, Gulfco Marine Maintenance, Inc. Site). All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA or the Resource Conservation and Recovery Act ("RCRA"), in which case the statutory or regulatory definitions shall apply.

1. The terms "and" and "or" shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its cope.
2. The term "any" (e.g., as in "any documents"), shall mean "any and all."
3. The term "arrangement" shall mean every separate contract or other agreement between two or more persons, whether written or oral.
4. The term "asset" shall include the following: real estate, buildings or other improvements to real estate, equipment, vehicles, furniture, inventory, supplies, customer lists, accounts receivable, interest in insurance policies, interests in partnerships, corporations and unincorporated companies, securities, patents, stocks, bonds, and other tangible as well as intangible property.
5. The term "document(s)" shall mean any object that records, stores, or presents information, and includes writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including by way of illustration and not by way of limitation, any invoice, manifest, bill of lading, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations including meetings/agreements and the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, telescope, telefax, report, notice, message, analysis, comparison, graph, chart, map, interoffice or intra office communications, photostat or other copy of any documents, microfilm or other film record, photograph, sound recording on any type of device, punch card, disc pack, tape or other type of memory generally associated with computers and data processing (including printouts and the programming instructions and other written material necessary to use such punch card, disc, or disc pack, tape or other type of memory), every copy of each document which is not an exact duplicate of a document which is produced, every copy of each document which has any writing on it (including figures, notations, annotations, or the like), drafts of documents, attachments to or enclosures with any document, and every document referred to in any other document.
6. The term "generator" shall mean persons who arranged for the disposal or treatment of hazardous substances at the place (i.e., the Gulfco Marine Maintenance, Inc. Site) where the hazardous substances were released.
7. The term "hazardous material" shall mean any hazardous substances, pollutants or contaminants, and hazardous wastes, as defined below.

8. The term "hazardous substance" shall have the same definition as that contained in Subsection 101(14) of CERCLA, 42 U.S.C. Section 9601(14), and includes any mixtures of such hazardous substances with any other substances.
9. The term "hazardous waste" shall have the same definition as that contained in Subsection 1004(5) of RCRA, 42 U.S.C., Section 6903(5), and 40 CFR Part 261.
10. The term "identify" shall mean, with respect to a natural person, to set forth the person's name, present or last known business, present or last known job (including job title and position), and personal addresses and telephone numbers.
11. The term "identify" shall mean, with respect to a corporation, partnership, business trust or other association or business entity (including, but not limited to, a sole proprietorship), to set forth its full name, address, and legal form (e.g., corporation [including state of incorporation], partnership, etc.), organization, if any, a brief description of its business, and to indicate whether or not it is still in existence and, if it is no longer in existence, to explain how its existence was terminated and to indicate the date on which it ceased to exist.
12. The term "identify" shall mean, with respect to a document, to provide the type of document. This information includes the document's customary business description, its date, its number (e.g., invoice or purchase order number), if any, subject matter, the identity of the author (including the addressor and the addressee and/or recipient), and the present location of such document.
13. The term "identify" shall mean, with respect to a piece of real property or property interest, to provide the legal description which appears in the county property records office, or in the equivalent office which records real property transactions for the area which includes the real property in question.
14. The term "material(s)" shall mean any and all objects, goods, substances, or matter of any kind including, but not limited to, wastes.
15. The term "operator" shall mean those persons who once owned or operated the place (i.e., Gulfco Marine Maintenance, Inc.) where hazardous substances were released during the time when the hazardous substances were disposed.
16. The term "owner" shall mean the person who now owns the property (i.e., Gulfco Marine Maintenance, Inc.) where the hazardous substances were released or person(s) who previously owned the property.
17. The term "person" shall have the same definition as in Subsection 101(21) of CERCLA, 42 U.S.C., Section 9601(21), and shall include any individual, firm, unincorporated association, partnership, corporation, trust, consortium, joint venture, commercial entity, United States government, State and political subdivision of a State, municipality, commission, any interstate body, or other entity.
18. The terms "pollutant" or "contaminant," shall have the same definition as that contained in

Subsection 101(33) of CERCLA, 42 U.S.C., Section 9601(33), and includes any mixtures of such pollutants and contaminants with any other substances. The term shall include, but not be limited to, any element, substance, compound, or mixture. The term shall also include disease-causing agents which after release into the environment will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunction in reproduction), or physical deformations.

19. The term "property interest" shall mean any interest in property including, but not limited to, any ownership interest, an easement, a deed, a lease, a mining claim, any interest in the rental of property, any interest in a corporation that owns or rents or owned or rented property, and any interest as either the trustee or beneficiary of a trust that owns or rents, or owned or rented property.
20. The term "real estate" shall mean and include, but not be limited to, the following: land, buildings, homes, dwelling places, condominiums, cooperative apartments, offices or commercial buildings. The term includes real estate located outside of the United States.
21. The term "release" has the same definition as that contained in Subsection 101(22) of CERCLA, 42 U.S.C., Section 9601(22), and includes any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discharging of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant.
22. The terms "Site" or "Facility" shall mean and include operations at Gulfco Marine Maintenance, Inc. located in Brazoria County, Texas.
23. The term "solid waste" shall have the same definition as that contained in Subsection 1004(27) of RCRA, 42 U.S.C., Section 6903(27), and 40 CFR Part 261.
24. The terms "transaction" or "transact" shall mean any sale, transfer, giving, delivery, change in ownership, or change in possession.
25. The term "transporter" shall mean persons who selected the place (i.e., Gulfco Marine Maintenance, Inc. Site) where the hazardous substances were released as a disposal Site and transported the hazardous substances to that place.
26. The term "Site" refers to the Gulfco Marine Maintenance, Inc.

## QUESTIONS

- A. Please explain corporate relationships, if any, of your company and your related companies, to other parties listed on Enclosure "A" of this letter. Please provide copies of documents showing these relationships, if they exist.
- B. Were there any pits located on the Site when it was purchased by your company or your related companies? If your answer is "yes", please answer the following questions concerning these existing pits:
1. Identify the number and locations of pits that were on the Site at that time. Please provide copies of maps showing these locations, if they are available.
  2. Identify the maximum capacity of each pit at that time.
  3. Please specify the contents of each pit.
- C. Did your company or related companies, hold, store, process, treat, or dispose of any hazardous material(s) at the Site? If the answer to this question is yes, please answer the following questions:
1. Identify all third parties, including your related company, if they exist, from which you received hazardous materials;
  2. Identify who your company or your related companies coordinated with to transport the hazardous material(s);
  3. Identify the date(s) the hazardous material(s) was received at the Site;
  4. Identify the hazardous material(s) and the quantity of the hazardous material(s) that was received at the Site;
  5. Identify how your company or your related companies used all hazardous waste material(s) that was received at the Site;
  6. Identify how your company or your related companies disposed of all hazardous material(s) received at the Site.
  7. Identify who arranged for the transportation of the hazardous material(s) to the Site. Please provide copies of any relevant documents, including manifests, invoices, correspondence, or check stubs, that may be in your possession.